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TAGS: EFIN KTFN PTER PREL ETTC CA

SUBJECT: CANADA WILL NOT CO-SPONSOR FOUR JI INDIVIDUALS FOR UN DESIGNATION

REF: A. LAMBERT EMAIL 3/28

- 1B. OTTAWA 747
- 1C. STATE 41362
- 1D. STATE 40404
- 1E. STATE 39886

Classified By: Econ Minister Counselor B. Mohler for reasons 1.4b,d

¶1. (S) As requested in ref A, Economic Minister Counselor Brian Mohler (TFCO) and econoff approached Canadians again on March 28, this time at Director level, to urge the government of Canada to join the United States and Australia in sponsoring the designation of four JI individuals to the UN 1267 list. Department of Foreign Affairs and International Trade (DFAIT) International Crime and Terrorism Director Evelyn Puxley received the demarche, and responded with the same answer: Canada will not be able to co-sponsor the four JI individuals.

¶2. (SBU) Director Evelyn Puxley explained that currently the government of Canada is only willing to sponsor an individual or entity at the UN if the entity is already domestically designated under Canada's Criminal Code (whose listing is considered by Canadian courts as *prima facie* evidence of being a terrorist). At our last meeting a week ago, DFAIT's Georges Flanagan-Whalen had suggested that the GOC might be open to cosponsoring entities that were listed under their United Nations Suppression of Terrorism Regulations (UNSTR), a less-robust and quicker domestic listing. However, Director Puxley went back to the original requirement of Criminal Code listing, explaining that Canada's UNSTR list is "vulnerable" at the moment to challenge under the Canadian Charter of Rights and Freedoms. DFAIT's legal office has recommended that DFAIT not use the UNSTR process of domestic designation (quicker than the years often required to list under the Criminal Code) for cases where they don't have enough evidence, because a successful court challenge could lead to the elimination of the UNSTR list in Canada.

¶3. (S) Despite these procedural obstacles to co-sponsoring, DFAIT re-emphasized that they agree with the JI listing in principle and they see no specific problems with the four names; they just can't cosponsor. (Note: In an interesting aside, Flanagan-Whalen mentioned that under the Canadian Charter of Rights and Freedoms, it cannot be a crime just to belong to an organization. Therefore, even if an organization is already listed, it is not any easier to list member individuals, because merely citing their membership in the organization as a reason for individual listing could be challenged under the Charter. End note.) DFAIT asked that the GOC be given more time for future requests to co-sponsor, suggesting a best case where GOC agencies might be brought in to the process at the beginning of the USG interdepartmental review. DFAIT pointed out that there are working-level contacts between USG agencies and the Royal Canadian Mounted Police, Canadian Security Intelligence Service, and DFAIT, and that they are looking at ways to improve this cooperation.

¶4. (SBU) DFAIT also informed us that they expect their terrorism finance activities to be strengthened later this year by additional funding from the new Conservative government, but that this funding is not guaranteed. If the funding goes through, their domestic listing process should become more efficient through streamlined procedures (which may be announced this summer) and additional staffing. If this takes place, they may be in the position to co-sponsor with less lead-time, since their domestic timeframe might be shorter. Still, they will need advance notice of months, rather than weeks, if they continue to consider domestic designation as a prerequisite to co-sponsoring.

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